

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of D.W., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

GWENDOLYN WATKINS,

Respondent-Appellant.

UNPUBLISHED

April 19, 2002

No. 233283

St. Clair Circuit Court

Family Division

LC No. 99-000900-NA

Before: Gage, P.J., and Griffin and G. S. Buth*, JJ.

MEMORANDUM.

Respondent appeals as of right from an order terminating her parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (c)(i) and (ii), (g), and (j). We affirm.

The family court took jurisdiction over the child pursuant to MCL 712A.2(b)(1) and (2). On appeal, respondent argues that the family court could not properly assume jurisdiction because of the existence of other relatives who could care for the girl. We conclude that respondent's argument is an improper collateral attack of the family court's exercise of its jurisdiction. Unlike subject-matter jurisdiction, which may be raised at any time, a family court's decision to exercise jurisdiction over a particular child can only be challenged on direct appeal, not by collateral attack. *In re Hatcher*, 443 Mich 426, 437-440; 505 NW2d 834 (1993); *In re Powers*, 208 Mich App 582, 587-588; 528 NW2d 799 (1995). Thus, a respondent may not challenge the court's order assuming jurisdiction over the child in an appeal from the order terminating parental rights because the court's decision to assert jurisdiction was required to be separately appealed at an earlier point in the proceedings. *Id.* Here, respondent never challenged the family court's adjudication that the child came within the court's jurisdiction or requested a rehearing of the issue. Accordingly, respondent may no longer challenge the family court's exercise of jurisdiction. *Id.* at 588.

* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Hilda R. Gage
/s/ Richard Allen Griffin
/s/ George S. Buth